

THIRD ASSIGNMENT AND ASSUMPTION AGREEMENT

This Third Assignment and Assumption Agreement ("Assignment") is made and entered into as of the ____ day of _____, 2010, between the **City of Lincoln, Nebraska**, a municipal corporation ("City") and the **West Haymarket Joint Public Agency**, a political subdivision and corporate body politic of the State of Nebraska ("Agency").

RECITALS

I.

The Agency has been created and established by and between the University of Nebraska and the City of Lincoln pursuant to the Joint Public Agency Act, (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the "Act"), by entering into the Joint Public Agency Agreement creating the West Haymarket Joint Public Agency.

II.

A Certificate of Creation of the West Haymarket Joint Public Agency has been issued by the Secretary of State of the State of Nebraska in accordance with the Act.

III.

The Agency has been formed for the purpose of (a) constructing, equipping, furnishing and financing public facilities in the West Haymarket area of the City including but not limited to (1) a sports/entertainment arena (the "Arena"), (2) roads, streets and sidewalks, (3) a pedestrian grade separation, (4) public plaza space, (5) sanitary sewer mains, (6) water mains, (7) electric transmission lines, (8) drainage systems, (9) flood control, (10) parking garages and (11) surface parking lots (collectively, the "West Haymarket Facilities"), and (b) to (1) acquire land and to relocate existing businesses, and (2) undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities (collectively, as itemized on Exhibit A hereto, as the same may be amended from time to time, the "Projects," and, individually, a "Project"), (c) issuing bonds to finance the same (the "Bonds"), (d) providing for the operation, maintenance and management of the Arena and related facilities, (e) collecting revenues, rents, receipts, fees, payments

and other income related to the Arena, (f) levying a tax, as required and as provided by the Act and the JPA Agreement to pay the principal or redemption price of and interest on the Bonds, when and as the same shall become due; and (g) exercising any power, privilege or authority to provide for the acquisition, construction, equipping, furnishing, financing and owning such capital improvements or other projects upon or related to any of the Projects as shall be determined by the governing body of the Agency to be necessary, desirable, advisable or in the best interests of any of the Participants in the manner and as provided by the Act.

IV.

The Agency and the City have entered into a Facilities Agreement dated July 26, 2010, providing that the Agency pay the costs of acquiring and constructing each of the Projects for and on behalf of the City and that the Agency issue Bonds for such purposes, subject to certain funding obligations of the City.

V.

In order to carry out the above purpose of the Agency and its obligations under the Facilities Agreement, the parties desire that the City as Assignor assign to the Agency as Assignee all of its rights, interests, duties, and obligations under the agreements listed in Exhibit A (“Agreements”) attached hereto and incorporated herein by this reference which were originally entered into with the City, and Agency assume all obligations of the City under said Agreements.

NOW, THEREFORE, in consideration of the above Recitals, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. City does hereby sell, assign, transfer, and convey to Agency all of the City’s rights, title and interest in and to and under the Agreements as authorized under the agreements listed in Exhibit A, and Agency shall be entitled to exercise such rights without the prior consent or permission of City.

2. Assumption. Agency does hereby assume and covenant and agree to fully, completely, and timely perform, comply with, and discharge each and all of the obligations, duties and

liabilities of the City under said Agreements. Agency shall fully and completely indemnify and hold City harmless from and against the performance of any and all duties and obligations that arise after the date hereof that are imposed on City under the terms and provisions of the Agreements.

3. Future Performance of City. City agrees to cooperate fully with Agency and to assist Agency in exercising Agency's rights under the Agreements if such assistance becomes necessary or desirable in order for Agency to fully realize the benefits of which Agency is entitled under this Assignment, including the making, executing, and delivering of any documents or instruments or the giving or granting of any permission, waiver, or consent so long as such assistance or action does not subject City to liability solely by reason thereof and so long as Agency reimburses City for the reasonable value of any out-of-pocket costs.

IN WITNESS WHEREOF, the parties hereto have executed this Third Assignment and Assumption Agreement as of the ____ day of _____, 2010.

ATTEST:

City of Lincoln, Nebraska
a municipal corporation

City Clerk

By: _____
Chris Beutler, Mayor of Lincoln

West Haymarket Joint Public Agency
Board of Representatives

By: _____
Jayne Snyder, Chairperson

[illegible]

The foregoing Assignment and Assumption Agreement was acknowledged before me on this ____ day of _____, 2010, by Chris Beutler, Mayor of the City of Lincoln, on behalf of the City.

Notary Public

[illegible]

The foregoing Assignment and Assumption Agreement was acknowledged before me on this ____ day of _____, 2010, by Jayne Snyder, Chairperson of the Board of Representatives of the West Haymarket Joint Public Agency, on behalf of the Joint Public Agency.

Notary Public

LIST OF AGREEMENTS ASSIGNED TO AGENCY

1. Master Development Agreement between the City and BNSF to provide for a land exchange needed to create the new BNSF rail corridor and the site for the West Haymarket Project improvements; to provide for the removal of BNSF improvements on the property to be acquired by the City from BNSF; to provide for BNSF's construction of replacement tracks and related improvements; and to provide for BNSF's granting of certain license and easement rights to the City for Right of Entry Work related to the West Haymarket Project Improvements.
2. Land Exchange Agreement between the City and BNSF for acquisition of property from BNSF for the West Haymarket Project.
3. Construction and Maintenance Agreement between the City and BNSF to provide for terms and conditions regarding construction of the City's rights of entry work under the Master Development Agreement for the West Haymarket Project.